



## APPENDIX

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The mail fraud statute (Section 215 of the Criminal Code, 18 U. S. C. 338) provides:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, \* \* \* shall, for the purpose of executing such scheme or artifice or attempting so to do, place, or cause to be placed, any letter, postal card, package, writing, circular, pamphlet, or advertisement, whether addressed to any person residing within or outside the United States, in any post office, or station thereof, or street or other letter box of the United States, or authorized depository for mail matter, to be sent or delivered by the post-office establishment of the United States, or shall take or receive any such therefrom, whether mailed within or without the United States, or shall knowingly cause to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such letter, postal card, package, writing, circular, pamphlet, or advertisement, shall be fined not more than \$1,000, or imprisoned not more than five years, or both.

Sections 17 (a) and 24 of the Securities Act of 1933, (48 Stat. 74, 84-85, 87; 15 U. S. C. 77q (a), 77x) provide in part:

Sec. 17. (a) It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly—

(1) to employ any device, scheme, or artifice to defraud, or

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, \* \* \*.

\* \* \* \* \*

Sec. 24. Any person who willfully violates any of the provisions of this title, \* \* \* shall upon conviction be fined not more than \$5,000 or imprisoned not more than five years, or both.

Sections 7, 8, and 32 of the Securities Exchange Act of 1934 (48 Stat. 881, 886-889, 904-905; 15 U. S. C. 78g, 78h, 78ff (a)) provide in part:

Sec. 7. (a) For the purpose of preventing the excessive use of credit for the purchase or carrying of securities, the Federal Reserve Board shall, prior to the effective date of this section and from time to time thereafter, prescribe rules and regulations with respect to the amount of credit that may be initially extended and subsequently maintained on any security (other than an exempted security) registered on a national securities exchange. For the initial extension of credit, such rules and regulations

shall be based upon the following standard: An amount not greater than whichever is the higher of—

- (1) 55 per centum of the current market price of the security, or
- (2) 100 per centum of the lowest market price of the security during the preceding thirty-six calendar months, but not more than 75 per centum of the current market price.

Such rules and regulations may make appropriate provision with respect to the carrying of undermargined accounts for limited periods and under specified conditions; the withdrawal of funds or securities; the substitution or additional purchases of securities; the transfer of accounts from one lender to another; special or different margin requirements for delayed deliveries, short sales, arbitrage transactions, and securities to which paragraph (2) of this subsection does not apply; the bases and the methods to be used in calculating loans, and margins and market prices; and similar administrative adjustments and details. \* \* \*

(b) Notwithstanding the provisions of subsection (a) of this section, the Federal Reserve Board, may, from time to time, with respect to all or specified securities or transactions, or classes of securities, or classes of transactions, by such rules and regulations (1) prescribe such lower margin requirements for the initial extension or maintenance of credit as it deems necessary or appropriate for the accommodation of commerce and industry, having due regard to the general credit situation of the country, and (2) prescribe such higher margin re-

quirements for the initial extension or maintenance of credit as it may deem necessary or appropriate to prevent the excessive use of credit to finance transactions in securities.

(c) It shall be unlawful for any member of a national securities exchange or any broker or dealer who transacts a business in securities through the medium of any such member, directly or indirectly to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer—

(1) On any security (other than an exempted security) registered on a national securities exchange, in contravention of the rules and regulations which the Federal Reserve Board shall prescribe under subsections (a) and (b) of this section.

(2) Without collateral or on any collateral other than exempted securities and/or securities registered upon a national securities exchange, except in accordance with such rules and regulations as the Federal Reserve Board may prescribe (A) to permit under specified conditions and for a limited period any such member, broker, or dealer to maintain a credit initially extended in conformity with the rules and regulations of the Federal Reserve Board, and (B) to permit the extension or maintenance of credit in cases where the extension or maintenance of credit is not for the purpose of purchasing or carrying securities or of evading or circumventing the provisions of paragraph (1) of this subsection.

\* \* \* \* \*

SEC. 8. It shall be unlawful for any member of a national securities exchange, or any broker or dealer who transacts a business in securities through the medium

of any such member, directly or indirectly—

(a) To borrow in the ordinary course of business as a broker or dealer on any security (other than an exempted security) registered on a national securities exchange except \* \* \* (3) in accordance with such rules and regulations as the Federal Reserve Board may prescribe to permit loans between such members and/or brokers and/or dealers, or to permit loans to meet emergency needs.

\* \* \* \* \*

SEC. 32. Any person who willfully violates any provision of this title, or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this title, \* \* \* shall upon conviction be fined not more than \$10,000, or imprisoned not more than two years, or both, except that when such person is an exchange, a fine not exceeding \$500,000 may be imposed; but no person shall be subject to imprisonment under this section for the violation of any rule or regulation if he proves that he had no knowledge of such rule or regulation.

The pertinent provisions of Regulation T, promulgated by the Board of Governors of the Federal Reserve System, pursuant to Sections 7 and 8 of the Securities Exchange Act of 1934, *supra*, read as follows (Code of Federal Regulations, Title 12, Part 220, pp. 1000-1005, 1011):

SECTION 3. GENERAL ACCOUNTS. (a) Contents of general account.—All financial relations between a creditor and a customer, whether recorded in one record or in more than one record, shall be included in and be

deemed to be parts of the customer's general account with the creditor, except that the relations which section 4 permits to be included in any special account provided for by that section may be included in the appropriate special account, and all transactions in commodities for or with any customer shall be included in the special commodity account provided for by sections 4 (a) and 4 (e).

(b) General rule.—A creditor shall not effect for or with any customer in a general account any transaction which, in combination with the other transactions effected in the account on the same day, creates an excess of the adjusted debit balance of the account over the maximum loan value of the securities in the account, or increases any such excess, unless in connection therewith the creditor obtains, as promptly as possible and in any event before the expiration of three full business days following the date of such transaction, the deposit into the account of cash or securities in such amount that the cash deposited plus the maximum loan value of the securities deposited equals or exceeds the excess so created or the increase so caused.

A transaction consisting of a withdrawal of cash or registered or exempted securities from a general account shall be permissible only on condition that no cash or securities need be deposited in the account in connection with a transaction on a previous day and that, in addition, the transactions (including such withdrawal) on the day of such withdrawal would not create an excess of the adjusted debit balance of the account over the maximum loan value of the securities in the account or increase any such excess.

\* \* \* \* \*

(e) Liquidation in lieu of deposit.\*—In any case in which the deposit required by section 3 (b), or any portion thereof, is not obtained by the creditor within the three-day period specified in that section, securities shall be sold or covering or other liquidating transactions shall be effected in the account, prior to the expiration of such three-day period, in such amount that the resulting decrease in the adjusted debit balance of the account exceeds, by an amount at least as great as such required deposit or the undeposited portion thereof, any resulting decrease in the maximum loan value of the securities in the account.

\* \* \* \* \*

(g) Transactions on given day.—For the purposes of section 3 (b), the question of whether or not an excess of the adjusted debit balance of a general account over the maximum loan value of the securities in the account is created or increased on a given day shall be determined on the basis of all the transactions in the account on that day exclusive of any deposit of cash, deposit of securities, covering transaction or other liquidation that has been effected on the given day, pursuant to the requirements of section 3 (b) or 3 (e), in connection with a transaction on a previous day.

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\*This requirement relates to the action to be taken when a customer fails to make the deposit required by section 3 (b), and it is not intended to countenance on the part of customers the practice commonly known as "free-riding" or "three-day riding", to prevent which the principal national securities exchanges have adopted certain rules. See the rules of such exchanges and section 7 (e) of this regulation.



**SECTION 4. SPECIAL ACCOUNTS.** (a) General rule.—Pursuant to this section 4, a creditor may establish for any customer one or more special accounts.

Each such special account shall be recorded separately and shall be confined to the transactions and relations specifically authorized for such account by the appropriate subsection of this section and to transactions and relations incidental to those specifically authorized. An adequate record shall be maintained showing for each such account the full details of all transactions in the account.

A special account established pursuant to this section shall not be used in any way for the purpose of evading or circumventing any of the provisions of this regulation. If a customer has with a creditor both a general account and one or more such special accounts, the creditor shall treat each such special account as if the customer had with the creditor no general account.

The only other conditions to which transactions in such special accounts shall be subject under the provisions of this regulation shall be such conditions as are specified in the appropriate subsection of this section and in sections 2, 6 and 7.

\* \* \* \* \*

(c) Special cash account. (Provisions of January 1, 1938, to May 21, 1939).—In a special cash account, a creditor may effect for or with any customer bona fide cash transactions in securities in which the creditor may—

(1) purchase any security for, or sell any security to, any customer, provided funds sufficient for the purpose are already held in the account or the purchase or sale is in reliance upon an agreement accepted by the

creditor in good faith that the customer will promptly make full cash payment for such security; or

(2) sell any security for, or purchase any security from, any customer, provided the security is held in the account or the purchase or sale is in reliance upon an agreement accepted by the creditor in good faith that the security is to be promptly deposited in the account.

(c) Special cash account. (As amended May 22, 1939.)—(1) In a special cash account, a creditor may effect for or with any customer bona fide cash transactions in securities in which the creditor may—

(A) purchase any security for, or sell any security to, any customer, provided funds sufficient for the purpose are already held in the account or the purchase or sale is in reliance upon an agreement accepted by the creditor in good faith that the customer will promptly make full cash payment for the security and that the customer does not contemplate selling the security prior to making such payment; or

(B) sell any security for, or purchase any security from, any customer, provided the security is held in the account or the creditor is informed that the customer or his principal owns the security and the purchase or sale is in reliance upon an agreement accepted by the creditor in good faith that the security is to be promptly deposited in the account.

(2) In case a customer purchases a security (other than an exempted security) in the special cash account and does not make full cash payment for the security within 7 days after the date on which the security is so purchased, the creditor shall, except as

provided in the succeeding subdivisions of this section 4 (c), promptly cancel or otherwise liquidate the transaction or the unsettled portion thereof.

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### Supplement to Regulation T

Issued by the Board of Governors of the  
Federal Reserve System

Effective January 1, 1938

Maximum loan value for general accounts.—The maximum loan value of a registered security (other than an exempted security) in a general account, subject to section 3 of Regulation T, shall be 60 per cent of its current market value.

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